SB Civil Writ Petition No. 498/2001
State of Rajasthan Vs Shyodan & anr
9.8.2007

Hon'ble Mr Justice Ashok Parihar

Mr JK Agrawal, Addl GA – for petitioner
Mr MI Khan – for respondent No.1
BY THE COURT:

Petitioner has challenged the award dated 21.7.2000 passed by the Labour Court, Bharatpur, by which, while holding termination of services of the respondent No.1 – the concerned workman, as illegal and unjustified for want of compliance of section 25-F of the Industrial Disputes Act, 1947, the concerned workman has been ordered to be reinstated with 50% back wages.

Mr JK Agrawal, Addl Government Advocate, submitted that the project on which the concerned workman had been employed, came to an end in the year 1998 itself, as such, there could not have been any order of reinstatement. Letter dated 21.8.1990 along with the minutes of the meeting have been relied upon by Mr Agrawal to substantiate the above plea.

After hearing learned counsel for the parties, I have carefully gone through the material on record.

So far as completion of project is concerned, there have been no such plea on behalf of the petitioner either before the Labour Court or even in the present writ

petition which had been filed on 22.1.2001. That apart, a bare reading of the minutes of the meeting, as relied upon by Mr Agrawal, would show that after completion of above project the plantation work on which the concerned workman had been employed was handed over to the Forest Department. Even the statement made by the witnesses produced on behalf of the petitioner reveals the same story. In absence of any material placed before the Labour Court the plea now taken by the learned counsel cannot be accepted. Since on the basis of finding of fact the order of reinstatement had been passed by the Labour Court, I find no error or illegality in the discretion so used, however, looking to the nature and duration of employment, I find no justification for allowing any back wages to the concerned workman.

Accordingly, the writ petition is partly allowed. The impugned award dated 21.7.2000 passed by the Labour Court is modified to the extent that the concerned workman shall be entitled for reinstatement on the same terms and conditions he was employed at the time of his termination. The concerned workman is not held entitled for any back wages. However, if the back wages have already been paid to the concerned workman the same may not be recovered.

(Ashok Parihar) J.

bnsharma